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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,177	10/14/2004	George Braoudakis	MID-PT012	1955
3624 7590 07/10/2007 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER DEMERE, CHRISTOPHER R	
			ART UNIT 3709	PAPER NUMBER
			MAIL DATE 07/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,177

Applicant(s)

BRAOUDAKIS, GEORGE

Examiner

Christopher Demeree

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-32 is/are pending in the application.
- 4a) Of the above claim(s) 14-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-13 and 23-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/14/2004 and 10/17/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 4-13 and 23-32 in the reply filed on 6/8/2007 is acknowledged. Examiner erred in not including claim 22 in Group II. Claim 22 depends on claim 18, which is in Group II. Therefore, since Group II is the non-elected invention, examiner withdraws claim 22 from consideration.
2. Claims 14-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/8/2007.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Luberto (US 5725146 A).

Regarding claim 12, Luberto discloses a container including: two main panels (12 and 105), each substantially the same shape and having a plurality of substantially straight edges about its periphery (see Fig. 4), each edge extending angularly from each of two adjoining edges, and said main panels being joined to one another by a joining panel (76) having substantially parallel edges each of which constitutes a hinge line (140) along one of the edges of each main panel; a plurality of side walls (32 and

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46) depending from at least half of the edges of said main panels other than those in common with the hinge line, hereinafter referred to as remaining edges, said side walls and said joining panel enclosing a space between said main panels when said main panels are pivoted towards one another to define the enclosed space (see Fig. 1 closed pizza box); wherein one or more of said side walls includes an outer wall panel (41) and an inner wall panel (43), said outer wall panel extending from a proximal fold or score line (14) along a remaining edge and said inner wall panel extending from a distal fold or score line (42) remote from the proximal fold or score line and along an opposed edge of said outer wall panel to form a roll-over wall; and wherein one or more of said inner wall panels further include a lateral extension (68, 70, 80 and 82) extending beyond the distal fold or score line to an end, each lateral extension separated from its associated inner wall panel by a transverse fold line and having a further fold line intermediate the transverse fold line and the end whereby upon folding of the container, the lateral extensions may be folded to form a chamber adjacent the corner between the roll-over wall or walls having the lateral extension and its or their adjoining side wall or walls.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1, 4-10, 13 and 23-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luberto in view of Yocum (US 6027018 A).

Regarding claims 1, 13 and 23, Luberto teaches of a container and blank for making including: a main panel (12) having a plurality of substantially straight edges about its periphery (14, 16, 18 and 20), each edge extending angularly from each of two adjoining edges (see Fig. 1); a plurality of side walls (32 and 46) depending from at least half of the edges of said main panel, said edges having side walls (see Fig. 4) wherein one or more of said side walls includes an outer wall panel (41) and an inner wall panel (43), said outer wall panel extending from a proximal fold or score line (14) along a remaining edge and said inner wall panel extending from a distal fold or score line (42) remote from the proximal fold or score line and along an opposed edge of said outer wall panel (see Fig. 4). The combination of the inner and outer side panels form a roll over wall of double thickness. Luberto lacks a removable portion from one of said sidewalls.

Yocum, however, teaches of a carton with integral promotional material wherein one or more of the walls further include one or more removable portions (22) that serve as a coupon, advertisement or any other promotional material (Abstract lines 1-10). Therefore, it would have been obvious to one skilled in the art at the time of applicant's invention to include such promotional features on Luberto's pizza box so that the product would be more attractive to the consumer (Yocum; Col 1 lines 21-29). Furthermore, since Luberto teaches of sidewalls that are of double thickness it would be obvious to one skilled in the art that the strength of the overall box would not be

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compromised significantly if only the outer wall contained the removable coupons, since the remaining inner panel would still be intact.

Regarding claims 4 and 26, the combination of Luberto and Yocum teach of a container with double wall thickness (Luberto; inner wall panel 43 and outer wall panel 41) wherein only one panel has a removable section for a consumer coupon (Yocum; 22), leaving an intact inner wall panel and structurally sound box. It would have been obvious to one skilled in the art at the time of applicant's invention to place said removable coupons on the outer side panel rather the inner side panel so that the promotional material would be viewable to the consumer (Yocum; Col 1 lines 21-29).

Regarding claim 5, the combination of Luberto and Yocum teach of a container in which the removable portion (Yocum; 22) or portions are arranged with a perforation line (24 and 36) or line of weakness to facilitate removal from the remaining wall portion (outer wall) and inner wall panel and the remaining outer wall portion together with the inner wall panel, which is left intact after removal of the removable portion (as explained in the rejection of claims 1 and 4 above), retain sufficient structural integrity that the container remains stackable (Luberto; Col 4 lines 5-15) and performing its function in retaining the heat and/or freshness of its contents when enclosed therein.

Regarding claims 6 and 27, the combination of Luberto and Yocum teach of a container in which the removable portion includes a slit (Yocum; 66) providing a tab (Luberto; 62) or the like to facilitate easy removal of the coupon from the outer wall panel.

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Regarding claims 7 and 28, the combination of Luberto and Yocum teach of a container in which the tabs (Luberto; 52 and 54) or the like are provided on the lower surface or edge of the container (see Fig. 2) and serve the added purpose of allowing the assembled container to sit off a surface to allow for the circulation of air.

Regarding claims 8 and 29, the combination of Luberto and Yocum teach of a container in which the removable portions (Yocum; 22) are provided with markings (Yocum; 30) indicating that they constitute an advertising promotion, offer, coupon or token for a reward preferably subject to predetermined conditions being met (Yocum; Col 3 lines 10-20).

Regarding claims 9 and 30, the combination of Luberto and Yocum teach of a container according to claim 1, in which the inner wall panel is provided with markings (Yocum; 30) which become revealed upon removal of a removable portion (Yocum; 32) from the outer wall panel (see Yocum Fig. 3).

Regarding claims 10 and 31, the combination of Luberto and Yocum teach of a container according to claim 1, in which the sidewalls are at equal angles to each adjoining sidewall (Luberto; Fig. 2 shows side wall meeting at right angles to one another) and the side walls have substantially parallel edges such that the main panels are close to a substantially parallel spaced apart disposition, there being three side walls which together with the joining panel (Luberto; 76) constitute a four-sided carton forming a square or rectangular prism and the side walls and joining panel have dimensions selected for the packaging of pizza style pies (Luberto; Fig. 1), and may include ventilation holes (Luberto; Col 2 lines 25-27), corner reinforcing tabs (Luberto;

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68, 70, 80 and 82), simple single-paneled side walls (Luberto; 60) on the main panel not having the roll-over walls and such like as desired.

Regarding claim 24, the combination of Luberto and Yocum teach of a container in which one of the main panels constitutes a base panel (Luberto; 12) and the other a cover panel (Luberto; 105) and all of the remaining sidewalls of one of the main panels is provided with sidewalls in which the removable portions are provided on the outer wall panel whereby removal of the removable portions from the remainder of the outer wall panel leaves the remainder of the outer wall panel and the entire inner wall panel to provide the structural integrity of the container once the one or more of the removable portions have been removed (as explained in the rejection of claims 1 and 4 above).

7. Claims 11 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luberto in view of Yocum as applied to claims 1 and 23 above, and further in view of Uffmann (US 6153280 A).

Regarding claims 11 and 32, the combination of Luberto and Yocum lack teaching of a removable portion with magnetic material to permit the removable portion to be temporarily attached to a metallic surface. Uffmann, however, teaches of a magnetic card with perforations (58) that allow the panel (54) to be attached to a metallic surface via magnet (56). Therefore, it would have been obvious to one skilled in the art at the time of applicant's invention to further modify the Luberto and Yocum pizza box to include magnetic strips on the removable coupons so that the coupons could be placed on a refrigerator (Uffmann; Col 1 lines 14-17).

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mueller (US 5967407 A) and Labianca et al. (US 5385292 A). Mueller teaches of a box with roll over, double panel sidewalls and Labianca et al. teach of a pizza box with removed portions from the side panels for ventilation purposes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Demeree whose telephone number is (571) 270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CD

6/26/2007

GARY JACKSON
SUPERVISORY PATENT EXAMINER

Gary Jackson
7/5/07